SBCivil Writ Petition No.3195/2006

Krishna Lal
Vs.
SBBJ, Industrial Area, Sriganganagar

Date of Order :: 6th October, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. C.S.Kotwani, for the petitioner.
Mr. Vasudev Vyas, for the respondent.

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A cash credit limit of Rs.10 lacs was made in favour of the petitioner by the respondent Bank on hypothecation of immovable property owned by the petitioner. The petitioner failed to make the repayment of advance made and, therefore, a notice dated 20.6.2006 to take possession of the hypothecated property was issued by the Branch Manager of State Bank of Bikaner & Jaipur, Sriganganagar.

Being aggrieved by the same this petition for writ is preferred by the petitioner alleging therein that the notice aforesaid was issued by the respondent bank without adhering the provisions of Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “the Act of 2002”).

In reply to the writ petition it is stated by the respondent that the petitioner not only concealed the material facts but also made a false statement in petition for writ to the extent that action under

Section 13(4) of the Act of 2002 is taken without adhering the provisions of Section 13(2) of the said Act. It is emphasised that a notice under Section 13 (2) of the Act of 2002 was served upon the petitioner on 9/12.12.2002 and the petitioner in response thereto submitted a reply with a request to permit him to deposit the dues upto the month of April, 2003. The reply filed by the petitioner is placed on record as Anx.R/3. It is worthwhile to note that no other contention is raised in the petition except that the respondent bank has issued notice for taking possession without adhering provisions of Section 13 (2) of the Act of 2002.

The fact that a notice under Section 13(2) of the Act of 2002 was given to the petitioner and he also submitted reply to it is not denied by the petitioner. In view of it the foundation to claim the relief by this writ petition looses its existence. In view of the fact that a notice was given to the petitioner under Section 13(2) of the Act of 2002 and reply to the same was given by the petitioner, the petition for writ is having no merit.

The same, therefore, is dismissed.

(GOVIND MATHUR),J.

kkm/ps.